

IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCHES "SMC-1" : DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA.No.991/Del./2021
Assessment Year 2010-2011

Shri Raman Kumar, 45, Pathan Pura, Meerut – 250 002. PAN DXVPK2292H	vs.	The Income Tax Officer, Ward – 2 (2), Meerut.
(Appellant)		(Respondent)

For Assessee :	Shri Vinod Goel, C.A.
For Revenue :	Shri Om Parkash, Sr. DR

Date of Hearing :	18.11.2021
Date of Pronouncement :	24.11.2021

ORDER

This appeal filed by the Assessee is directed against the ex-parte Order dated 18.09.2018 of the Ld. CIT(A), Meerut, relating to the A.Y. 2010-2011.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the ex-parte order of the Ld. CIT(A) in confirming the addition of Rs.32,54,000/- made by the A.O. in the order passed under

section 144/147 of the I.T. Act, 1961. The assessee has also challenged the validity of the re-assessment proceedings.

3. Facts of the case, in brief, are that the assessee is a non-filer of income tax return. On the basis of AIR information received that the assessee has deposited cash of Rs.32,54,000/- in the S.B. A/c maintained with Oriental Bank of Commerce, the A.O, after recording reasons, reopened the assessment and issued notice under section 148 of the I.T. Act, 1961. Despite service of notices under sections 148, 142(1) and 144 on various dates, there was non-appearance from the side of the assessee, for which, the A.O. completed the assessment under section 144 of the I.T. Act, 1961 determining the total income of the assessee at Rs.32,54,000/-.

3.1. Since the assessee did not appear before the Ld. CIT(A) despite number of opportunities granted, the Ld. CIT(A) in the ex-parte order passed by him sustained the addition made by the A.O. and also upheld the validity of the re-assessment proceedings.

4. Aggrieved with such order of the Ld. CIT(A), the assessee is in appeal before the Tribunal.

4.1. Learned Counsel for the Assessee submitted that in the interest of justice assessee should be given an opportunity to substantiate his case since the entire deposit made in the bank is out of agricultural income and the trading activities carried on by the assessee. He submitted that even no notice under section 143(2) was issued. Therefore, he has no objection if the matter is restored to the file of A.O. for adjudication of the issue afresh.

5. The Ld. D.R. on the other hand while supporting the order of the Ld. CIT(A) fairly submitted that he has no objection if the matter is restored to the file of A.O.

6. I have heard the rival arguments made by both the sides and perused the record. It is an admitted fact that due to non-appearance of the assessee before the A.O. and non-compliance to the statutory notices, the A.O. completed the assessment under section 144 of the I.T. Act, 1961, determining the total income of the assessee at

Rs.32,54,00/-, which according to him is the unexplained cash deposit in the S.B. A/c maintained by the assessee with Oriental Bank of Commerce. I find due to non-appearance of the assessee before the Ld. CIT(A) despite number of opportunities granted, the Ld. CIT(A) in the ex-parte order passed by him, upheld the action of the A.O. It is the submission of the Learned Counsel for the Assessee that given an opportunity, the assessee is in a position to substantiate the cash deposit of Rs.32,54,000/- made in the S.B. A/c maintained with Oriental Bank of Commerce. Considering the totality of the facts and circumstances of the case and in the interest of justice, I deem it proper to restore the issue to the file of A.O. with a direction to grant one final opportunity to the assessee to substantiate his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the A.O. and substantiate his case without seeking any adjournment under any pretext, failing which, the A.O. is at liberty to pass appropriate order as per Law. I hold and direct

accordingly. The grounds raised by the assessee are accordingly allowed for statistical purposes.

9. In the result, appeal of the Assessee is allowed for statistical purposes.

Order pronounced in the open Court on 24.11.2021.

Sd/-
(R.K. PANDA)
ACCOUNTANT MEMBER

Delhi, Dated 24th November, 2021

VBP/-

Copy to

1.	The appellant
2.	The respondent
3.	CIT(A) concerned
4.	CIT concerned
5.	D.R. ITAT 'SMC-1' Bench, Delhi
6.	Guard File.

// By Order //

Assistant Registrar : ITAT Delhi Benches :
Delhi.